

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

In re:

James Martin Landwerlen AKA  
James M. Landwerlen  
  
Debtor.

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: Case No.: 17-09064  
: Chapter 7  
: Judge Robyn L. Moberly  
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**MOTION FOR RELIEF FROM AUTOMATIC STAY AND ABANDONMENT OF REAL  
PROPERTY BECAUSE STATEMENT OF INTENT PROPOSES SURRENDER OF  
PROPERTY AND NOTICE OF OBJECTION DEADLINE WITH 30-DAY WAIVER  
(FIRST MORTGAGE)**

The creditor, Bank of America, N.A., hereby moves the Court, pursuant to 11 U.S.C. §362(d) and §554, to lift the automatic stay and/or abandon from the estate the following real property: 330 NW 1st Avenue, Boynton Beach, FL 33435, (the "Property").

In further support of this Motion, Creditor respectfully states:

1. The debtor(s) filed a Chapter 7 case on December 7, 2017 – referred to as the "Petition Date."
2. As of the Petition Date, the creditor was the holder of a claim secured by the Property, more particularly described in that certain Mortgage, a copy of which is attached hereto as Exhibit A.
3. The above described Mortgage was given to secure a promissory note – referred to as the "Note" – payable in the original sum of \$256,000.00. A copy of the Note is attached hereto as Exhibit B.
4. The Debtor(s) statement of intent indicates the Property is to be surrendered.

5. As of January 5, 2018, the outstanding principal of the Note was \$206,855.32. As of January 5, 2018, the outstanding amount of the obligations under the Note and Mortgage less any partial payments or suspense balance is \$223,644.26.

6. The estimated market value of the Property is \$128,000.00. The basis for such valuation is the Debtor's Schedule A, a copy of which is attached hereto as Exhibit C.

7. Cause exists for relief from the automatic stay for the following reasons:

- (a) Debtor(s) intend to surrender the Property located at 330 NW 1st Avenue, Boynton Beach, FL 33435 according to the Statement of Intention filed.
- (b) Creditor's interest in the Property is not adequately protected. The fair market value of the Property is declining and payments are not being made to Creditor sufficient to protect Creditor's interest against that decline. Payments have not been made pursuant to the terms of the Note and/or the confirmed Plan.
- (c) Pursuant to 11 U.S.C. §362(d)(2)(A), Debtor(s) has/have no equity in the Property; and pursuant to §362(d)(2)(B), the Property is not necessary for an effective reorganization.

8. The creditor hereby waives the right under 11 U.S.C. §362(e) to a hearing on this motion within thirty (30) days of the date it is filed.

WHEREFORE, the creditor moves the Court to enter an order terminating lifting the automatic stay and/or abandoning the Property, and granting such other relief as appropriate.

Dated: 01/23/18

Respectfully submitted,

/s/ Sarah E. Barngrover  
Sarah E. Barngrover (28840-64)  
Edward H. Cahill (0088985)  
Adam B. Hall (0088234)

John R. Cummins (11532-10)  
Amy E. Gardner (93532)  
Manley Deas Kochalski LLC  
P.O. Box 165028  
Columbus, OH 43216-5028  
614-220-5611; Fax: 614-627-8181  
Attorney for Creditor  
The case attorney for this file is Sarah E.  
Barngrover.  
Contact email is  
sebarngrover@manleydeas.com

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Motion for Relief from Automatic Stay and Abandonment of Real Property Because Statement of Intent Proposes Surrender of Property and Notice of Objection Deadline with 30-Day Waiver (First Mortgage) was served on the parties listed below via e-mail notification:

U.S. Trustee, 101 W. Ohio St.. Ste. 1000, Indianapolis, IN 46204, 317-226-6101

John J. Petr, Office of John J. Petr, 111 Monument Cir Ste 900, Indianapolis, IN 46204-5175, petrtrustee@kgirlaw.com

Michael Clifford Cooley, Attorney for James Martin Landwerlen AKA James M. Landwerlen, Allen Wellman McNew, Five Courthouse Plaza, Greenfield, IN 46140, mcc@awmh.net

The undersigned hereby certifies that a copy of the foregoing Motion for Relief from Automatic Stay and Abandonment of Real Property Because Statement of Intent Proposes Surrender of Property and Notice of Objection Deadline with 30-Day Waiver (First Mortgage) was served on all parties listed on the attached creditor matrix via regular U.S. Mail, postage prepaid on January 23, 2018.

/s/ Sarah E. Barngrover

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